IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12110 of 2004

Between:

P.Ratnaiah, S/o. China Ramaiah,
R/o Thummuru, Naidupet Mandal, Nellore District.

..... PETITIONER

AND

1 The District Collector, Civil Supplies Wing,
Nellore District, Nellore.
2 The Revenue Divisional Officer, Gudur,
Nellore District.
3 Mandal Revenue Officer, Naidipet,
Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus declaring the proceedings Rc.C.2468/2004 dt.5-7-2004 of the 2nd respondent is arbitrary, illegal, capricious apart from gross violation of guidelines issued vide Govt. Memo No.148/CS.1/99-1 dt.22-1-1999 of the Food Civil Supplies & Consumer Affairs (CS.II) Department and consequently direct the respondents herein to scrupulously follow the rules in bifurcating the Fair Price Shop of Thummur-1 of Naidupet Mandal of Nellore District.

Counsel for the Petitioner:MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.12110 OF 2004

ORDER:

The petitioner was appointed as fair price shop (FPS) dealer of Thummuru village, hamlet of Naidupet Gram Panchayat, Nellore District. Said fair price shop was bifurcated in 1985 and another shop being FPS-1, Thummuru, was created in Thummur Village. There is another fair price shop - FPS No.5 at Naidupet. By impugned proceedings dt.5.7.2004 the Revenue Divisional Officer, Gudur, second respondent sent proposals to the District Collector for bifurcation of FPS No.1 at Thummuru and FPS No.5 at Naidupet and creation of a new FPS at Sanjay Gandhi Colony. This impugned order is assailed in this Writ Petition.

It is now well settled that a FPS dealer, appointed under Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973, which is now stands replaced by Andhra Pradesh State Public Distribution System Control Order 2001, has no right to be appointed as such dealer. Therefore, if the Government has decided to reduce number of cards to a dealer, the FPS dealer cannot question the same. It was so held by the Supreme Court in DISTRICT COLLECTOR v. B. SURESH. The relevant observations made by the Supreme Court are as under:

> Under the provisions of the Andhra Pradesh Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973, which order has been framed under the provisions of the Essential Commodities Act, a fair price shop dealer has no right to be appointed as such dealer. The licence which such dealer has obtained under the provisions of the Act to deal with the commodities has not been cancelled. The right to trade under Article 19(1)(g) of the Constitution of India is not being affected in any manner. The Government, as a policy decision, decided to reduce the number of cards per dealer. Such decision does not affect the rights, if any, of the fair price shop dealers and as such the High Court was in error to hold that they were to be given any notice prior to the impugned decision of the State Government.

Learned Assistant Government Pleader for Civil Supplies, however, submits that as per G.O.Ms.No.25, dt.18.3.1998, any person aggrieved by the orders passed by the District Collector ordering bifurcation, has right of appeal before the Director of Civil Supplies. In view of the remedy of appeal, liberty is reserved to petitioner to file appeal before the Director of Civil Supplies within one week from the date of

receipt of a copy of this order. As and when such appeal is filed, the same may be entertained and decided by the Director of Civil Supplies on its own merits regarding viability of petitioner's FPS.

With the above observations, the Writ Petition is dismissed.

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(V.V.S.RAO, J)

20.6.2005

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To

1 The District Collector, Civil Supplies Wing,
Nellore District, Nellore.
2 The Revenue Divisional Officer, Gudur,
Nellore District.
3 Mandal Revenue Officer, Naidipet,
Nellore District.

4 2 CCs to G.P. for Civil Supplies, High Court Bldgs., Hyderabad (OUT)

5 2 CD copies